

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

Toni L. Vassar,

Plaintiff,

v.

Forever 21 Retail, Inc.

Defendants.

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Civil Action No.

NOTICE OF REMOVAL

COMES NOW Defendant Forever 21 Retail, Inc. (“Defendant”), by and through undersigned counsel, and files its Notice of Removal pursuant to 28 U.S.C. § 1441 and 1446, showing this Court as follows:

1.

Defendant is named in a civil action filed in the Superior Court of Douglas County, State of Georgia, Civil Action Number 22CV02098. This Notice of Removal is filed with the United States District Court for the Northern District of Georgia, Atlanta Division, within thirty (30) days of service upon Defendants of the initial pleading setting forth the claim for relief upon which the action is based.

2.

Defendants attach hereto as Exhibit “A” a true and correct copy of all of the process, pleadings (as defined by Federal Rule of Civil Procedure 7), and Orders served on Defendants in this action to date, as required by 28 U.S.C. § 1446(a).

3.

The United States District Court for the Northern District of Georgia, Atlanta Division, is the district court having jurisdiction over the place where the state action is pending pursuant to 28 U.S.C. § 90(a)(3).

4.

A copy of this Notice of Removal has been filed with the Clerk of the Superior Court of Douglas County, State of Georgia, as required by 28 U.S.C. § 1446(d).

DIVERSITY OF JURISDICTION

5.

Removal in this case is proper pursuant to 28 U.S.C. § 1332(a)(1).

6.

Plaintiff is a citizen of Georgia.

7.

Forever 21 Retail, Inc. (“Forever 21”) is a California corporation with its principal place of business in California.

8.

This controversy is, therefore, between citizens of different states pursuant to 28 U.S.C. §§ 1332(a)(1) and 1332(c)(1).

9.

To establish that the amount-in-controversy requirement is met under 28 U.S.C. § 1446(a) in a notice of removal, a defendant need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold. *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014). Evidence of the amount is required by § 1446(c)(2)(B) only when the plaintiff contests, or the court questions, the defendant's allegation. *Id.*

10.

The amount in controversy is met by Plaintiff's own allegations. She alleges she has incurred bodily injuries, pain and suffering, and loss of enjoyment of life as a result of a slip and fall accident in a Forever 21 store. Complaint ¶¶ 8-9. Prior to filing suit, Plaintiff made an Offer of Settlement, pursuant to O.C.G.A. § 9-11-68, in the amount of \$2 million, which included alleged special damages exceeding \$143,292. Accompanying the demand, Plaintiff included over 130 pages of medical records which contain a potential surgical recommendation.

11.

Settlement offers that provide “specific information ... to support [the plaintiff’s] claim for damages” suggest the plaintiff is “offering a reasonable assessment of the value of [his] claim” and are entitled to more weight. *Bryant v. Publix Super Markets, Inc.*, No. 1:20-CV-3916-JPB-CCB, 2021 WL 2470454, at *6 (N.D. Ga. Mar. 26, 2021) (citing *Golden Apple Management Co. v. Geac Computers, Inc.*, 990 F. Supp. 1364, 1368 (M.D. Ala. 1998)). See also *Adeniji v. Berkshire Hathaway Homestate Ins. Co.*, No. 1:17-CV-2763-SCJ, 2017 WL 10410660, at *2 (N.D. Ga. Sept. 26, 2017) (Concluding that those demand letters that provide specific information to support the amount requested may be entitled to more weight).

WHEREFORE, Defendants pray that this Notice of Removal be filed and said action be removed to proceed in this Court and that no further proceedings be had in the Superior Court of Douglas County.

This 9th day of January, 2023.

/s/ Thomas G. Tidwell

Thomas G. Tidwell
Georgia Bar Number 712110
COZEN O’CONNOR
1230 Peachtree Street, NE
The Promenade, Suite 400
Atlanta, Georgia 30300
Telephone: (404) 572-2028
E-mail: ttidwell@cozen.com

Counsel for Defendants

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CERTIFICATE OF SERVICE

I hereby certify that on January 10th, 2023, I electronically filed the foregoing **NOTICE OF REMOVAL** with the Clerk of Court by uploading same to the Odyssey eFileGA electronic filing system, which will automatically send e-mail notification of such filing to the following attorneys of record:

Iymann Williams, Esq.
The Williams Law Firm
863 Flat Shoals Rd. #164
Conyers, Georgia 30094
TheWLFFIRM@gmail.com

This 10th day of January, 2023.

/s/ Thomas G. Tidwell

Thomas G. Tidwell
Georgia Bar Number 712110